IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 29125 of 2005(P)

AGAINST THE ORDER IN EP.1939/03 IN OS.2759/2001 of PRL.MUNSIFF COURT,THRISSUR

.....

PETITIONER:

C.K.LAKSHMI, AGED 44,
W/O.CHERPIL MADHAVAN, VIYYUR DESOM,
VILVATTOM VILLAGE, THRISSUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT:

SUVARNA KURIES AND LOANS (P) LTD.,
THRISSUR REP. BY ITS DEPUTY CHAIRMAN,
THRISSUR-1.

BY ADV. SRI.A.MOHAMED MUSTAQUE
SRI.M.K.SUMOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.29125/2005 P

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE E.P.NO.1939/03 IN O.S.NO.2759/01 ON THE FILE OF THE MUNSIFF COURT, THRISSUR DTD. 19/11/03.**

EXT.P2: **COPY OF THE OBJECTIONS SUBMITTED BY THE PETITIONER DTD. 2/04/04 IN EXT.P1.**

EXT.P3: **COPY OF THE SALE PROCLAMATION DRAWN BY THE MUNSIFF COURT, THRISSUR IN E.P.NO.1939/03 IN O.S.NO.2759/01 DTD. 09/08/05.**

/TRUE COPY/

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) No. 29125 OF 2005

Dated this the 4th day of July, 2007

JUDGMENT

The judgment debtor whose properties have been brought to sale by the respondent decree holder in execution of a money decree has filed this Writ Petition under Article 227 complaining that Ext.P2 objections filed by him have not been considered by the execution court. He also urges through the Writ Petition that she is a traditional pappadam maker and therefore her house cannot be attached and sold since she is entitled to get the benefit granted under Section 60 (1) (c) of CPC.

2. Heard Sri.Ravi Pariyarath, counsel for the petitioner and Sri.Sumod counsel for the 4th respondent. As rightly submitted by Mr.Sumod it is not contended in Ext.P2 at all, that the petitioner is entitled to the benefit of Section 60 (1) (c) of the CPC, instead the contention is only that the properties which are now attached and sought to be sold no longer remain the property of the petitioner. That contention, I agree with Mr.Sumod is a contention to be raised by the present owners of the property through proper claim petition under Rule 58 of Order XXI. Obviously, the petitioner is in need of time for paying decree debt. Noticing this fact, this court while admitting this Writ

Petition granted stay on condition that the petitioner shall pay Rs.5,000/- within one month from 17.10.05. Mr.Ravi submits that the above condition was promptly complied with by the petitioner. I accept the above submission and dispose of the Writ Petition issuing the following directions:

The order of stay will continue until the court passes an order on a prospective application to be submitted by the petitioner for recording full satisfaction of the decree subject to the following conditions. The petitioner pays every month commencing from 1st of August 2001 at the rate of Rs.4,000/- towards the decree debt till the entire decree debt is discharged. When she feels that the entire decree debt is discharged, it is open to her to file application for recording full satisfaction. The petitioner will forfeit the benefit of this judgment if she defaults payment of any two instalments.

PIUS C. KURIAKOSE, JUDGE

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